



## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6464.1-01-R10]

### **Proposed Modification of National Pollutant Discharge Elimination System General Permit for Concentrated Animal Feeding Operations Located in Idaho (IDG010000)**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed modification of NPDES General Permit and request for public comment.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 proposes to modify the National Pollutant Discharge Elimination System (NPDES) general permit for concentrated animal feeding operations (CAFOs) in Idaho excluding Tribal lands (Permit). EPA proposes to modify the Permit to establish monitoring conditions for the subsurface discharges of pollutants from production areas and dry weather surface and subsurface discharges from land application areas at these CAFOs to waters of the United States. A Petition for Review was filed on September 22, 2020, in the Ninth Circuit Court of Appeals challenging the Permit; the Court granted the petition. The modified permit includes new and revised conditions to address the Ninth Circuit Court of Appeal's Order and Opinion filed on December 16, 2021 (*Food & Water Watch et al. v. U.S. Environmental Protection Agency* (No. 20-71554)).

**DATES:** Comments must be received by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments and requests regarding the Modified Permit must be submitted to [epar10wd-npdes@epa.gov](mailto:epar10wd-npdes@epa.gov) with the subject line: Public Comments on IDG010000.

**FOR FURTHER INFORMATION CONTACT:** Permit documents may be found on the EPA Region 10 website at: <https://www.epa.gov/npdes-permits/npdes-general-permit-concentrated-animal-feeding-operations-cafos-idaho>.

Copies of the Modified Permit and fact sheet are also available upon request. Requests may be made to Audrey Washington at (206) 553-0523. Requests may also be electronically mailed to: [washington.audrey@epa.gov](mailto:washington.audrey@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background:**

The modification is a major modification pursuant to 40 CFR 122.62(a)(15). EPA Region 10 reissued the NPDES General Permit for CAFOs in Idaho (IDG010000) on May 13, 2020; the Permit became effective on June 15, 2020 (85 FR 28624). Subsequently, a Petition for Review was filed on September 22, 2020, in the Ninth Circuit Court of Appeals, challenging the Permit on the basis that it did not contain representative effluent monitoring to ensure compliance with all applicable effluent limitations in violation of the Clean Water Act and implementing regulations (*Food & Water Watch et al v. U.S. Environmental Protection Agency* (No. 20-71554)). The Court granted the petition holding that the Permit failed to include monitoring to ensure compliance with the discharge prohibitions in the Permit. The Modified Permit includes new and revised conditions to address the Ninth Circuit Court of Appeal's Order and Opinion filed on December 16, 2021 (*Food & Water Watch et al. v. U.S. Environmental Protection Agency* (No. 20-71554)).

### **II. Other Legal Requirements**

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. Compliance with Endangered Species Act, Essential Fish Habitat, Paperwork Reduction Act, and other requirements are discussed in the original 2019 Fact Sheet to the permit.

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